

## **SITE DEVELOPMENT PERMIT**

<b>FILE NO.</b>	<b>H20-009</b>
<b>LOCATION OF PROPERTY</b>	<b>Southeast corner of North 4<sup>th</sup> Street and East St. James Street (180 North 4<sup>th</sup> Street).</b>
<b>ZONING DISTRICT</b>	<b>CG Commercial General</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Residential Neighborhood</b>
<b>PROPOSED USE</b>	<b>Site Development Permit to allow the installation of three automatic vehicle gates and a manual swing pedestrian gate at an existing residential building on an approximately 0.62-gross acre site.</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Exemption in accordance with CEQA Guidelines Section 15303(e) for New Construction or Conversion of Small Structures</b>
<b>APPLICANT ADDRESS</b>	<b>Steven Gratul INDE Architecture 690 Texas Street San Francisco, CA 94107</b>
<b>OWNER ADDRESS</b>	<b>Karim Sultan, Covia 2185 N. California Blvd, Suite 215 Walnut Creek, California 94596</b>

### **FACTS AND FINDINGS**

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. **Project Description.** The project consists of a Site Development Permit to allow the installation of three automatic electric vehicle gates and a manual swing pedestrian gate at an existing apartment building on an approximately 0.62-gross acre site. No other physical improvements to the site and no changes to the existing building are proposed.
2. **Site Description.** The subject approximately 0.62-gross acre site is currently developed with an existing 10-story residential building at the southeast corner of North 4<sup>th</sup> Street and East St. James Street. The site is surrounded by an office building to the north, a gym to the west and a mix of single-family and multi-family housing to the east and south.

3. **General Plan Conformance.** The Envision San José 2040 General Plan Land Use/Transportation Diagram designation for the subject site is Residential Neighborhood. This land use designation is applied broadly throughout the City to encompass most of the established, single-family residential neighborhoods, including both the suburban and traditional residential neighborhoods which comprise most of its developed land. The subject site is developed with an existing 10-story apartment building. The surrounding neighborhood is developed with a mix of residential and commercial uses. The proposed gates are incidental to the existing residential use of the property, which is consistent with the uses intended for this designation.
4. **Zoning Ordinance Conformance.** The project site is located within the CG Commercial General Zoning District. However, the use is an existing residential building. The project does not propose any physical changes to the existing building, and there would be no changes to the setbacks or height.
  - a. Site Development Permit. Section 20.100.610 of the San José Municipal Code states that a Site Development Permit is required prior to the issuance of any building permit for any structure on any site in conformance with the applicable zoning regulations. The proposed gates are defined as structures. Therefore, the issuance of a Site Development Permit is required prior to the issuance of any building permit.
  - b. Setbacks and Height. The project consists of the installation of three automatic vehicle gates and one manual pedestrian swing gate. The project does not consist of any physical changes to the existing building. There would be no changes to the existing setbacks or height of the building. The maximum height of the gates would be 7 feet.
5. **Design Guidelines Consistency.** The project consists of the installation of three automatic vehicle gates and one manual pedestrian vehicle gate. The gates would be composed of black steel and would include decorative elements to complement the existing masonry wall and landscaping on-site. The gates would be located within the front and side setbacks of the property. The front and side of the subject site, where the gates would be installed, is landscaped, further screening the gates from adjacent properties. Therefore, the project would be consistent with the Residential Design Guidelines for gates and fencing.
6. **Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.
  - a. The project involves the installation of a three 7-foot high automatic gates and one manual pedestrian swing gate at the perimeter of an existing apartment building. Construction would occur from 7:00 a.m. to 7:00 p.m. Monday through Friday. The project would not consist of any other physical changes to the property. Therefore, the project would not have an unacceptable negative affect on adjacent properties regarding noise, vibration, dust, drainage, erosion, stormwater runoff, and odor and is considered exempt in accordance with CEQA Guidelines Section 15303(e) for New Construction or Conversion of Small Structures including accessory structures such as garages, carports, patios, swimming pools, and fences.

## FINDINGS

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San Jose Municipal Code establishes required findings for issuance of a Site Development Permit.

- a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and Area Development Policies. As described above, the project is consistent with the General Plan. There are no applicable specific plans and area development policies for the subject site.

- i. Community Design Policy CD-5.5: Include design elements during the development review process that address security, aesthetics and safety.
- ii. Community Design Compatibility CD-4.9: For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

*Analysis: The project would allow for additional security measures at the perimeter of the site by restricting access to the existing parking lots at the front and rear of the site. The site already utilizes security cameras at the perimeter of the existing building. The gates would be setback from the front property line and would be well integrated into the existing apartment building. The gates would have a maximum height of 7 feet and would be installed in line with the existing 7-foot high masonry wall at the front and side of the site. The gates would be aesthetically consistent with the existing masonry wall and landscaping, and would be similar in color, material, and style to other gates located in the immediate vicinity of the subject site.*

- b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project.

*Analysis: As discussed above, the project conforms to the development regulations for the Commercial General Zoning District as set forth in Section 20.40.200 of the San José Municipal Zoning Code. There would be no changes to the height or setback of the existing building. The gates would be placed 9 feet from the property line on North 4<sup>th</sup> Street and 7 feet 8 inches from the property line on East St. James Street. The maximum height of the gates would be 7 feet.*

- c. The Site Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

*Analysis: The project is consistent with City Council Policy 6-30 Public Outreach Policy for Land Use and Development Proposals. A sign describing the proposed project has been posted in the front setback area of the site since June 7, 2020. A notice of the hearing was sent to surrounding neighbors and property owners within a 500 feet radius of the subject site.*

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

*Analysis: The 7-foot high gates would be installed in line with the existing 7-foot high masonry wall in both the front and side setback areas. The gates would be composed of black steel and would include decorative elements to complement the existing masonry wall and landscaping on-site. Therefore, the height and design of the gates would be mutually compatible and aesthetically harmonious with the existing building on-site.*

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

*Analysis: The gates would be similar in height, material, and color to other existing gates found in the immediate vicinity of the subject site. The Saint Claire Club, located at the northeast corner of North 2<sup>nd</sup> Street and East St. James Street, as well as the Town Park Towers, located on North 3<sup>rd</sup> Street, both include black steel and wrought iron gates at the front setbacks. Therefore, the installation of the gates at the subject site would be aesthetically harmonious with the character of the neighborhood.*

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

*Analysis: As described above, the project consists of the installation of 3 automatic vehicle gates and one manual pedestrian swing gate. The project occurs within an urbanized area and would not contribute any significant negative effects to the surrounding environment. No other physical improvements to the site and no physical changes to the existing building are proposed. Therefore, the project would not have an unacceptable negative affect on adjacent properties. Under the provisions of Section 15303(e) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), which allows for the construction and location of limited numbers of new, small facilities or structures, this project is found to be exempt from environmental review.*

- g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

*Analysis: The subject site has perimeter landscaping along both North 4<sup>th</sup> Street and East St. James Street. The gates would be installed in line with an existing masonry wall at both street frontages. The gates would be No other physical improvements are proposed at the subject site.*

- h. Traffic access, pedestrian access and parking are adequate.

*Analysis: The site would remain accessible to pedestrians and vehicular traffic from both North 4<sup>th</sup> Street and East St. James Street. There are no proposed modifications in uses at the site, therefore there are no required modifications to the number of parking spaces. The project is not proposing any additional units, square footage, or vehicle trips. The projected traffic for this project was reviewed by the Public Works Department and was found to be minimal.*

In accordance with the facts and findings set forth above, a Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four (4) years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Site Development Permit shall be deemed acceptance of all conditions specified in this Permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
5. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.



6. **Conformance to Plans.** The development of the site shall conform to the approved Site Development Permit plans entitled, "The Shires Gate Installations" dated June 26, 2020 on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04), with the exception of any subsequently approved changes.
7. **Hours of Construction.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
8. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
9. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
10. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
11. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
12. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* This permit file number, H20-009, shall be printed on all construction plans submitted to the Building Division.
  - b. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
  - c. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
  - g. *Other.* Such other requirements as may be specified by the Chief Building Official.
13. **Fire Code Compliance.** Compliance with all applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.
14. **Tree Removal.** No tree larger than 38 inches in circumference, measured at a height of 4.5 feet above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
15. **Building and Property Maintenance.** The property management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.

16. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
17. **Colors and Materials.** All colors and materials are to be those specified on the Approved Plan Set.
18. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
19. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris.
20. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
21. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium fixtures unless otherwise approved with this project. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
22. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
23. **Public Works Clearance for Building Permit(s):** Prior to the issuance of Building Permits, the applicant will be required to have satisfied all the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <https://www.sanjoseca.gov/your-government/departments/public-works/development-services/public-works-applications>
  - a. **Transportation:** The project is not proposing any additional units, square footage, or vehicle trips. The projected traffic for this project was reviewed and found to be minimal, therefore no further traffic analysis is required.
  - b. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which include site design measures and source controls to minimize stormwater pollutant discharges.
  - c. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodifications Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14)
  - d. **Flood: Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
  - e. **Street Improvements:** Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
  - f. **Site Utilization Plan and Revocable Encroachment Permit (Street/Sidewalk Closures):** At the implementation stage, Developer shall provide to the Public Works Project Engineer a Site Utilization Plan with the application of a Revocable

Encroachment Permit for any proposed sidewalk and lane closures to support the onsite construction activities.

- i. The following should be included with the Site Utilization Plan and Revocable Permit application, but are not limited to:
    - 1) **Site Utilization Plan and Letter of Intent:** The site utilization plan should provide a detailed plan of the location of the temporary facilities within the boundary of the construction site. The Letter of Intent should provide a description of operations of the site as well as the reasons for the sidewalk/lane closures and why the activities/uses that are proposed within the Public right-of-way can't occur within the construction site. These include the use of the right of way for temporary facilities and activities such as man lifts, baker tanks, staging area, concrete pumping and activities, etc. The letter must also provide a detailed discussion if covered pedestrian walkways are infeasible (ex. swinging loads over the sidewalk are not safe for pedestrians).
    - 2) **Multi-Phased Site Specific Sketches:** These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work to be accomplished within the right-of-way. The exhibit should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment such as barricades, cones, arrow boards, signage, etc.
  - ii. Developer shall minimize the potential impact to vehicular and pedestrian traffic by:
    - 1) Implementing the closures at the time the onsite activities dictate the need for the closure.
    - 2) Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closures as outlined in condition i.2) above.
  - iii. If the proposed lane and parking closures are part of the Revocable Permit Application, Developer shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at:  
<https://www.sanjoseca.gov/your-government/departments/transportation/permits>.  
Developer shall contact DOT at (408) 535-8305 for more information concerning the requirements of these applications.
24. **Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
  - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or



- c. The use as presently conducted creates a nuisance.

**APPROVED** and issued on this **5<sup>th</sup> day of August, 2020.**

Rosalynn Hughey, Director  
Planning, Building, and Code Enforcement

Deputy

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